

Introduced by Senator Morrow

February 14, 2003

An act to add Section 216 to the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as introduced, Morrow. Family law: court files.

Under existing law, judicial records generally may be inspected by members of the public in the office of the clerk of the court.

This bill would provide that a court file or a portion of the file relating to proceedings for dissolution and nullity of marriage, legal separation, and actions under the Uniform Parentage Act may be sealed upon the request of a party as to the file of that party, a finding of good cause by the court, as specified, and a determination that one or more of the following circumstances exist: (1) the proceeding involves a minor child or children and the file contains certain information, as specified; (2) the file contains certain financial information; or (3) file information might facilitate misuse of a party's personal identifying information. The bill would provide that the request may be made by ex parte application. The bill would also authorize the court, in its discretion, to unseal a file or portion thereof upon the motion of any party or interested person. The bill would also require the court in making this determination to weigh the benefit to the public, the detriment to the parties and, if appropriate, the best interests of the minor child or children. This bill would provide that an order sealing a file shall expire 10 years after the entry of that order unless extended by the court. The bill would impose a state-mandated local program by requiring the clerk of the court to maintain limited access to these court files.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 216 is added to the Family Code, to
2 read:

3 216. (a) The files of the superior court relating to proceedings
4 for dissolution of marriage, nullity of marriage, and legal
5 separation of the parties pursuant to Division 6 (commencing with
6 Section 2000) and actions brought under the Uniform Parentage
7 Act (Part 3 (commencing with Section 7600) of Division 12) may
8 be sealed upon the request of a party as to the file of that party, a
9 finding of good cause by the court, and when one or more of the
10 circumstances described in subdivision (b) exist. This request may
11 be made by ex parte application. A sealing of the file pursuant to
12 this section does not limit access to the files by the following
13 persons:

14 (1) A party to the proceeding.

15 (2) An attorney of record for a party to the proceeding.

16 (3) Any person possessing a notarized authorization signed by
17 a party to the proceeding within 30 days of the presentation of the
18 request to the party.

19 (4) A federal or state law enforcement officer in the pursuit of
20 his or her duties.

21 (5) Court personnel in the performance of their duties.

22 (6) Any person designated in a court order.

23 (7) Judicial officers.

24 (8) The Family Court facilitator for the county in which the
25 action was filed or the facilitator's employees or agents in the
26 performance of their duties.



(b) The court may seal the file or a portion of the file only if, in addition to a finding of good cause, one or more of the following circumstances exist:

(1) The proceeding involves a minor child or children and the file contains any of the following:

(A) A psychological evaluation.

(B) Reports of recommendations containing personal information about the minor child or children of the parties.

(2) The file contains financial information of a personal nature.

(3) The file contains information that could facilitate the misuse of a party's identity or of a party's personal information.

(c) After a file has been sealed, a court may order it, or a portion of it, to be unsealed upon the motion of any party or any interested person. This determination shall be in the discretion of the court. In making this determination, the court shall weigh the benefit to the public against the detriment to the parties and, when a minor child or children are a subject of the proceeding, shall also consider the best interests of the minor child or children.

(d) For the purposes of this section, good cause exists if the court finds any of the following:

(1) A substantial probability that a party's right to privacy will be significantly infringed.

(2) A substantial probability that public access to the file will place a party or a person identified in Section 6211 at risk of physical harm.

(3) A substantial probability that a minor child involved in the proceedings will be put at risk of physical, emotional, or psychological harm.

(e) An order sealing a file pursuant to this section shall expire 10 years after the date of the entry of that order unless extended by the court.

(f) The clerk of the court shall allow access to the court files sealed pursuant to this section only to those persons designated in subdivision (a) unless the files are unsealed pursuant to subdivision (c).

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title

1 2 of the Government Code. If the statewide cost of the claim for
2 reimbursement does not exceed one million dollars (\$1,000,000),
3 reimbursement shall be made from the State Mandates Claims
4 Fund.

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